WHEN MEN MAY QUIT

Judges Taft and Ricks Hand Down Decisions

IN THE ANN ARBOR CASES

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Pourse April 5 Judge Tell's opin ion in the interestion such brought by the Foliado, Ann Aproc & North Michigas military company agreems the Petit agreems assuming and relate militared companies and it which Chief Arthur and Grown Master Suggest were smile port defendants, is in follows:

This amount by the committee Taining Ann Arbor & North Michigan railway company for a temperal inthe offer entire M. A remise the object security of the Brenton-based of Louis motive Engineers and a defendant being maigraing or continuing in force may abail require or operated any tenway companies beyond to refuse to band of the band of of freight in course of transportation from one state to another to the complainant or from refusing to receive and namite curs of such freight which have been handed over complainant's road. and also from in any way directly or indirectly endeavoring to possessed of in-direct any of the employee of the defend-ant railway companies, whose lines con-nect with the railway of complainant not to extend to said company the same facilities for interchanging of interstate truffic as are extended by said companies to other railway companies. A temposaued by me against Arthur ex parte. A hearing has since been had as question now is whether on the evidence produced the order shall be continued n force until the final decision of the Rule 12 Considered.

It will be convenient in discussing the question whether any relief can properly be given to complainant against Arthur to consider rule 12 and the acts done or to be done in pursuance thereof; first, in the light of the criminal law; second, with reference to their character as civil wrongs; and third, with reference to the remery which a court of equity may

afford against them.

First the complainant and defendant companies are common carriers subject to the provisions of the interstate comto the provisions of the interstate com-merce act and the business exchanged between them is averred by the bill to be nearly all interstate freight. The second paragraph of the third section of the act provides that "all common car-mers subject to the provisions of this act shall, according to their respective powers afford all reasonable, ocoper and public facilities for the interchange of traffic between their respective lines and for the receiving, forwarding and delivery of passengers and property to and from their sever I lines and those connecting therewith, and shall not discrimmate in their rates and charges between such connecting lines."

Guilty of Misdetteanor.

Any common carrier subject to the provisions of this act, or whenever such commen carrier is a corporation, any director or afficer thereof, or any receiver, trustee or leaser, agent or person, acting for or employed by such corporation, who, alone, or with any other corporation, company, person or party shall wilfully omit or fail to do any act, matter or thing in this or fail to do any act, matter or thing in this act required to be done, or shall cause or willingly suffer or permit any act to be done, or shall aid or abet such omission or failure shall be destined guilty of a mission, and shall appen conviction incread in any district court of the United States, within the jurisdiction of which each offense was committed, be subject to a fine of not to exceed \$5,500.

Under this section it will be seen that the engineers of the defendant comrefusing to handle inter-state panies, refusing to handle inter-state freight of complainant, are guilty of a demessor and subject to criminal presecution. Section 10 in terms subjects to pun-

ishment only the common carrier com puny and its employes, but it is clear that any one, though neither a common carrier ner an employesiding or abetting or procuring the common carrier or its imployee to violate the section would be punishable under it as a principal. It is therefore, evident that Arthur and the other numbers of the brotherhood, if successful in procuring their own members or the defendant companies to refuse to handle interstate freight from complainant company, would be guilty of violating section 10 and punishable as principals thereunder.

Every One Punishable.

Section 5440, R. S., provides that, "It two or more persons consults to commit any offense against the United States and one or more parties to any act to effect the object of the conspirmcy, all the parties to such compliancy shall be liable to a penalty of not more than \$10,000, or to imprisonment for not more than two years or to both fine and information in the discertion of the court."

All persons combining to carry out rule 12 of the brotherhood against the complainant company, if any one of them does an act in furtherance of the combination, are punishable under the foregoing section. This is true, because as already shown, the object of the concoloury is to induce, procure and compel the defendant companies and their employes to refuse equal facilities to the complainant company for the inter-change of interstate freight, which was as we have seen, is an offense against the United States by virtue of section to

after a guoted.

For Arthur to send word to the committee character to direct the men to refrom to hardle observate freight of com-plainted and to notify the defendant companies with the intention of proouring them to do so all in execution of colo 12 is an act in furtherance of the conspiracy to provide the defendant companies to commit a crime and sub-

the him and all companing with him he is presenting of meeting hard to be a superior of meeting hard to be a superior of the him he has been to be able to be able to reduce to he make the continue to present to meeting and the rection to the present to the present to the present to the present to the total present to the present to the total present to the present the of the same minter

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Engineers Must Obey.

The interstate commerce law itself recognizes the duties therein imposed to be says: be of such a character as to warrant a remedy by enforced specific performance for in summary equity proceed-ings, at the instance of the interstate commerce commission, provided, by sec-tion 16 as amended in 1889, express power to issue injunctions mandatory or otherwise to prevent violations of the orders of the commission is given to the circuit courts. In addition to that a remedy by mandamus in the district and circuit courts, expressly denominated cumulative, is given to an interested person to compel compliance by a common carrier with the provisions of the

A corporation acts only through its offi-cers and employes and it is through them only that its action can be restrained or compelled. While doing the work of the company, the employe is the company, and, having notice of a mandate from a court of competent jurisdiction as to how that work must be done, he must in his work obey the mandate.

The reason for the rule is obvious. It The reason for the rule is obvious. It would be impracticable to enforce the relation of master and servant against the will of either. Especially is this true of railway engineers where nothing but the most painstaking and devoted attention on the part of the employe will secure a proper discharge of his responsible duties. It would ever seem to be against public policy to expose the lives of the traveling public and the property of the shipping public, to the danger which might arise from the enforced and unwilling performance of so delicate a service.

Expansion of Equity.

The argument is made that as great public interests are dependent on the continuous performance by common carriers of their duties, equity should intervene by injunction to prevent the cripping of the people's agents by unlawful strikes. It is due that remedies in courts of county expand and progress. in courts of equity expand and progress to meet the wants of changing civilization and conditions, but that expansion and progression are along well defined lines and the enforced specific perform-ance of a contract of service would be a marked departure from the precedents to be found in a century of equitable re-

We finally reach the question whether. in view of the foregoing, this court can enjoin Arthur from inciting, inducing or procuring the members of the brotherhood in the employ of defendant com-panies to carry out rule 12 and refuse to handle complainant's freight. We have no doubt of it. For him to do so will be to cause an unlawful, irreparable injury to complainant and will be to induce on the part of the employes, a violation of the mandatory order of this court. Either of these grounds is ample for the exercise upon him of the restraining power of a writ of injunction.

Men Cannot Be Enjoined.

While it is true that the engineers in the employ of defendant companies may not be enjoined from quitting the service of those companies, there is no rule of equity which prevents the court from enjoining Arthur from advising, in enjoining Arthur from advising, inducing or procuring such employesin pursuance of rule 12, to
quit the service of defendant
companies for the purpose of causing a
wrongful, criminal and irreparable injury to the complainant. The effect
would be not to compel the employes to
remain in the service of he defendant companies against their will, but it would be to keep from them a wrongful influence which, if exerted, would be likely to cause such an injury. It is immaterial whether the step to be taken by Arthur is merely ministerial, as it is said, or whether it involves discretion on his part. The operation of the rules as against complainant is unlawful, will do it irreparable injury and therefore, with the exception already noted, every step in its enforcement may be enjoined. Here Judge Taft rites numerous authorities to sustain his position.

Injunction Against Crime. It was suggested in argument that an injunction would not issue against the commission of a crime. The rule thus broadly stated has sometimes been announced, but it will be found on examination of the cases that it applies only where the injury about to be caused in to the public alone, and where the proper

remedy is by criminal proceedings.

Where an unlawful injury to private rights is threatened, and irreparable injury is likely to ensue, equity will enjoin on behalf of the person whose rights are to be invaded, notwithstanding the fact

that a similarly proceeding on behalf of the patty he she same act will stan be to encourage attention absorbt to make to the same act will stan be to the same act of the sam

He Finds Substantially With Judge Taft in the Contempt Case.

Tourne, Ohio, April 3.—The following is the full text of Judge Rick's decision in the Ann Arbor contempt cases. After reciting the jurisdictional facts

The application for this order was made to me at Chambers, in Cleveland, late on Saturday night, March 11. The situation set out in the bill dis-

closed an emergency in which prompt action was necessary. I had granted a similar mandatory order in 1891 on a bill for an injunction filed in this court by the Wheeling & Lake Erie railroad, and it was enforced with beneficial resuits as against engineers, firemen and trainmen who had refused to handle interstate commerce freight loaded on cars consigned to various ports on Lakes Superior and Michigan. The bill in this case clearly entitled the complain-ant to relief as against the defendants railroads who were threatening to refuse

ratiroads who were threatening to refuse to receive or deliver interstate freight.

The authority of the court to issue such an order has been questioned, but it rests on established principles. In Beadell vs. Perry. L. R. 3, Eq. 465, a mandatory injunction was granted on motion of Sir John Stewart, V. C. In giving judgment in that case he said: "Reference has been made to a supposed rule of court that mandatory

supposed rule of court that mandatory injunctions cannot properly be made except at the hearing of the cause. I have never heard of such a rule.

"Lord Gottenham was, so far as I know, the first judge who proceeded by way of mandatory injunction, and he took great care to see that the party applying was entitled to relief in that shape."

In Coe vs. Louisville & Nashville and

In Coe vs. L way when application was made to Judge Baxter of the United States supreme court at Nashville, Tenn., for a preme court at Nashville, Tenn., for a mandatory injunction restraining the defendant from discriminating against the complainant's business in handling live stock, and especially from inhibit-ing persons from consigning live stock to complainant's yards, that fearned judge said: "Ought a mandatory order judge said: "Ought a mandatory order to issue upon this preliminary application? Clearly not, unless the urgency of the case demands it, and the rights of the parties are free from reasonable doubt. The duty which complain ants' seek by this suit to enforce is imposed and defined by the law—a duty of which the court has judicial knowledge. The injunction compelling its performance pending this controversy can do the defendant no harm; whereas a suspension of the accommodations would pension of the accommodations would work inevitable and irreparable mis-chief to the complainant. The injunc-tion prayed for will therefore be issued." tion prayed for will therefore be issued."
It is said the orders issued in this case are without precedent. Every just order or rule known to equity courts was born of some emergency to meet some new conditions, and was, therefore, in its time, without a precedent. If based on sound principles and beneficent results follow their enforcement, affording necessory relief to the one party without im-

sound principles and beneficent results follow their enforcement, affording necessary relief to the one party without imposing tilegal burdens on the other, new remedies and unprecedented orders are not unwelcome aids to the chancellor to meet the constantly varying demands for equitable relief.

Mr. Justice Brewer, sitting in the circuit court for Nebraska, said: "I believe most thoroughly that the powers of a court of equity are as vast and its processes and procedure as elastic as all the changing emergencies of increasingly complex business relations and the protection of rights demand."

Mr. Justice Blatchford, speaking for the supreme court in Joy vs. St. Louis, listh U.S. said: "It is one of the most useful functions of a court of equity that its methods of procedure are capable of being made such as to accommodate themselves to the development of the interests of the public in the progress of trade and traffic by new methods of intercourse and transportation."

of intercourse and transportation."

The spirit of these decisions has controlled this court in its action in this case. It is not necessary for the purposes of this case to undertake to define poses of this case to undertake to define with greater certainty the exact relief which such cases may properly invoke; but that the necessities growing out of the rapidly multiplying interests following our extending railway business makes new and correspondingly efficient measures for relief essential is evident, and the courts in the exercise of their jurisdiction must meet the emergencies as fast as possible within the limits of existing laws, until needed additional legislation can be secured.

It is our duty to deal with the facts of these cases as they are presented. The parties now charged with contempt must be tried on the facts as they have been made to appear, and, having fully con-

be trued on the facts as they have been made to app at, and, having fully considered them. I conclude that Engineers Clark, Case. Rutger and Conley, and their firemen as named, quit the service of the Lake Shore and Michigan Scuthern railroad under circumstances when they had a right to do so and that they are not therefore in contempt of court because of such conduct and they will be discharged.

be discharged.

In reaching this conclusion I have treated these cases as criminal in their character and given the accused the benefit of the reasonableshoubt, especially as to the extent to which they had conspired to act concertedly in quitting service in a way to injure their employer and aid in enforcing a boycott. An act when done by an individual in the exercise of a right may be lawful, but when done by a number conspiring to injure or improperly influence another may be every trace of them. Any druggist will need of them. Any druggist will see it for you.

That process the the beyond had been the control of the self-based to the self-based to the self-based the control of the self-based the self-based the self-based the based to the self-based the self-based the based to the self-based to the selfcompany, and no right to interfere with increment of its trains. When he Ann Arlaw car he refused and said. I quit. He afterwards agreed with the superintendent of the Detroit division to take his train to its destination if the order to take his train to its destination if the order to take the best outed car was countermanded. He remained with his engine and brought his train to Air Line Junction. When he arrived at that point, as the termination of his run, he says in his testimony that the caller told me when I registered, 'You get 134.' I said, 'All right, I'll be up.' It was his duty to give me such notice."

Though he claims to have quit ht Alexis at 10 o'clock in the merning, he brought his train to its destination, and received the order at Alexis to take the

brought his train to its destination, and when told what his next run would be, gave so notice of having quit or of in tending to quit. This is satisfactory evidence that he did not quit in good faith in the morning, but intended to continue in the company's service, and that his conduct was a trick and device that his conduct was a trick and device to avoid obeying the order of the court. I accept the protestations of Mr. Lennon made under oath, that he did not intend to disobey the orders of the court and did not believe he was violating the laws of the United States. This does not, therefore, seem to me to be the occasion when it would be wholesome or wise to administer an exemplary pun-

With these views of my duty, an order will be entered that the necused, James Lennon, stands adjudged as guilty of contempt and pay a fine of \$50 and the costs of this proceeding, upon payment of which he will be discharged payment of which he will be discharged from the further orders of the court. The orders made in this case as to all the connecting roads and their employes who have continued in the service are still in full force, and it is but just to all concerned that the court should say that the laws and orders having now been fully interpreted and made public, any violations thereof that may hereafter be made will be dealt with in a spirit and made will be dealt with in a spirit and purpose quite different from that which has controlled us in this case.

ARTHUR IS UNCERTAIN.

He Doesn't Know What the Men Will Do Next.

Do Next.

CLEVELAND. April 3.—P. M. Arthur, grand chief of the Brotherhood of Locomotive Engineers, was asked today what he intended to do, in view of the fact that the decision of the United States circuit court had been against the brotherhood in some particulars. Mr. Arthur smiled when asked about the decision, and said: "All right. I don't know what we will do now. I have not given the matter a moment's thought, but the engineers will be all right in any event. The court does not seem to understand what my duties are. I have not got such jurisdiction over the men as the court may think. I have no authority to order a strike. The men settle all these matters by vote, and I merely give my consent if I see fit to do so. In this case I presume the court is under the impression that I had authority to order a strike."

"What will be the effect of this decision in the injunction suit against

cision in the injunction suit against

"I suppose it will enjoin from issuing certain notices to the men." "What will you do about it?" "I can't tell just yet. I will not say any more about the matter until I see the decision in full."

"Will the brotherhood fight the con-tempt case further?"
"I cannot tell you anything about it

"The judge has held one of the men for contempt."
"Yes, so I notice; but the dispatch does not say what they are going to do with the man. Just wait until we hear further particulars, and we may know more about what can be done in the

Burial Permits.

Burial Permits.

Lester Odikisk, No. 29 Randolph street, Valley City; Anna Vemanbuzgr, No. 432 North avenue, Greenwood; Wm. K. Jensma, No. 339 Alpine avenue. Greenwood; Maria Levandotski, No. 225 Eleventh street, Mt. Calvary; Carrie Buel, No. 102 Third street, Greenwood; Andrew Stainiak, No. 10 Pettibone street, Mt. Calvary.

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See Living Whist tonight.

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The Brandard and Character of the Parpie filving Bridence for Die. Graniand and Braham Has Birres Been

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MR. THEFS.

"Every part of my hood has resource affect, ed by the dimension openions, town and these were very tool inclosed. What open come stopped up, ranging in care and desemble of the translate were not into only trendent. My stomach and dignettic organic were seriously affected. I had no relate for fixed of any kind. I had such doll, heavy points in my thest, and in the small of my back, and heat twen my shouther bludge. In last, I ask fored all the nice eating appropriate of estarth, so that my whole system assumed to be involved. I had treed many physicians and patent medicines, but to be avail.

"Finally I determined to try Drs. Copeland and Graham. I knew that metal my people had an idea that they could not do what their patients claimed they were doing but I want to tell the patiel, as I have told my friends, that the idea is wrong. Under their treatment all my distressing symptoms have disappeared and I feel as well as ever I did. These physicians have curred me, and I feel that I cannot say enough in penies of their skill and their methods of treatment.

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TRADE FROM A DISTANCE.

Dr. S. Clay Todd received an order for medi-cines yesterday, in a registered letter, from the Netherlands, Europe (near Amsterdam), with a mint bill (legal tender note) of ten dollars in-closed. It was a bill of the issue of 1988, new form, and it was very gratifying to us to case were it no more than just a shy glimpse and th privilege of just feeling it. It proves also that the fame of Dr. S. Clay Todd has gone to the far shores of the Atlantic ocean, and that money is sent from 4,000 miles away for his "wonderful remedies" and advice.

G. VISSURERS, Editor of "De Standard," Grand Rapids, Mich.

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